

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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VINCENT MASINO, *et al.*,

Plaintiffs,

- against -

A TO E, INC.,

Defendant.

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NOT FOR PUBLICATION

ORDER ADOPTING REPORT
AND RECOMMENDATION AND
DIRECTING CLERK TO
ENTER JUDGMENT

09-CV-1651 (KAM) (CLP)

MATSUMOTO, United States District Judge:

This matter is before the court for review of the Report and Recommendation ("R&R") of Magistrate Judge Cheryl L. Pollak, dated September 3, 2010 (ECF No. 20), recommending that the court grant plaintiffs' motion for default judgment against defendant A to E, Inc. ("defendant") in the amount of \$32,081.78, plus interest, for defendant's violations of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1132 and 1145. The Report and Recommendation was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 72.1, and it advised that any objections were to be filed within 14 days, or by September 20, 2010. (*Id.* at 16.) To date, no objection has been filed.

In reviewing a Report and Recommendation, the district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Where, as here, no objection to the R&R

has been filed, the district court "need only satisfy itself that that there is no clear error on the face of the record." *Urena v. New York*, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (citation and quotation marks omitted); accord Fed. R. Civ. P. 72 advisory committee's notes (1983).

Upon a careful review of the pleadings, plaintiffs' unopposed submissions, evidence submitted in support of plaintiffs' default judgment motion, and Judge Pollak's thorough R&R, the court finds no clear error in the Report and Recommendation and adopts it as the opinion of the court. Accordingly, the Clerk of the Court is respectfully directed to enter judgment in plaintiffs' favor against defendant in the following amounts: (1) \$22,314.60 in unpaid contributions to the Fund; (2) \$3,482.70 in interest on the unpaid contributions at a rate of \$6.11 per day from March 1, 2009 to September 21, 2010; (3) \$2,231.46 in liquidated damages; (4) \$2,676.00 in attorney's fees; (5) \$1,137.00 in audit fees; and (6) \$350.00 in costs, for a total award of \$32,191.76, plus any additional interest that accrues from the date of this Order until the entry of judgment at a rate of \$6.11 per day, together with post-judgment interest pursuant to 28 U.S.C. § 1961.

The Clerk of the Court is further directed to close this case. Plaintiffs' counsel shall serve a copy of this order on defendant by certified mail, and shall file proof of service via Electronic Case Filing within 3 days of the date of this order.

SO ORDERED.

Dated: Brooklyn, New York
September 21, 2010

/s/
KIYO A. MATSUMOTO
United States District Judge
Eastern District of New York